

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MELVYN KLEIN,
Plaintiff,
v.

JOSEPH L. JACKSON, et al.,
Defendants.

Case No. [18-cv-04445-JSW](#)

ORDER OF DISCLOSURE

The undersigned issues this Order of Disclosure to advise the parties of an issue that has recently come to my attention. Under 28 U.S.C. section 455(b)(4), a court should disqualify itself when he “knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding[.]” *See also* Code of Judicial Conduct Canon 3(C)(1). Section 455(f) further provides:

Notwithstanding the preceding provisions of this section, if any ... judge... to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the ... judge..., divests himself or herself of the interest that provides the grounds for the disqualification.

See also Code of Judicial Conduct Canon 3(C)(4).

The undersigned participated in a year-end financial review during the third week of December and during that review learned I was invested in a closed/end investment fund in which

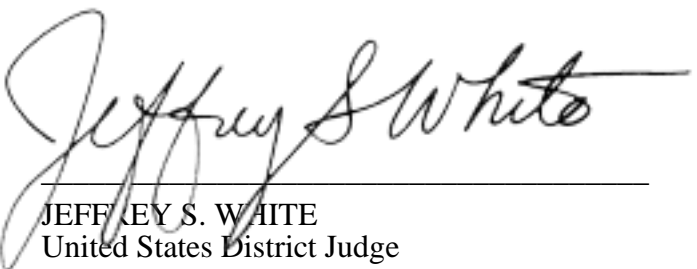
1 securities were held in my name. Among the securities included in the fund was Blackrock.
2 Blackrock Fund Advisors owns 10% or more of defendant WageWorks and is a subsidiary of
3 Blackrock Inc.

4 It is my understanding that the securities in the fund were purchased between April 2020
5 and November 2020, but I did not direct the purchase of the securities and was not aware that I
6 held the securities until the year-end review. Within 72 hours of learning of this investment, I
7 divested myself of the interest in all securities held in the fund, including the securities in
8 Blackrock.

9 In light of the time this case has been assigned to me and the time and effort the parties and
10 I have invested in the matter to date, I conclude the public interest would be served by my
11 continued participation on the case. I also conclude the fact surrounding my discovery of the issue
12 and my subsequent divestment of the securities does not require recusal from this matter.
13 However, I am issuing this Order to disclose the issue to the parties. If any party has an objection
14 to the undersigned continuing to preside over this matter, they shall file those objections by no
15 later than January 25, 2021. The undersigned shall not take any further action in this matter until I
16 have received, considered, and resolved those objections. If the undersigned receives no
17 objections, the undersigned will resume work on this matter.

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19 **IT IS SO ORDERED.**

20 Dated: January 4, 2021

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JEFFREY S. WHITE
United States District Judge